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THE UNITED PROVINCES AGRICULTURISTS' RELIEF ACT, 1934

WITH SHORT NOTES & COMMENTARY

[Passed by the United Provinces Legislative Council but
not yet assented to by the Governor and the
Governor-General in Council.]

BY

BENI PRASAD AGARWALA, M. A., LL. B

Advocate, Allahabad

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THE UNITED PROVINCES AGRICULTURISTS' RELIEF ACT, 1934.

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THE UNITED PROVINCES AGRICULTURISTS' RELIEF ACT, 1934.

[PASSED BY THE LEGISLATIVE COUNCIL OF THE UNITED
PROVINCES OF AGRA AND OUDH.]

*An act to make provision for the relief of agriculturists
from indebtedness.*

WHEREAS it is expedient to make provision for the relief of agriculturists from indebtedness ;

And WHEREAS the previous sanction of the Governor General under section 80-A (3) (e)* of the Government of India Act has been obtained to the passing of this Act ;

It is hereby enacted as follows :

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.	1. (1) This Act may be called the United Provinces Agriculturists' Relief Act, 1934.
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(2) It extends to the whole of the United Provinces of Agra and Oudh :

Provided that the provisions of Chapter III shall not apply to any mortgage to which the provisions of the Bundelkhand Land Alienation Act II of 1903 are applicable.

(3) The Local Government may, after obtaining the approval of the Legislative Council, by notification in the

* 5 and 6, Geo. V, C. 61 ; 6 and 7, Geo. V, C. 37 ; 9 and 10, Geo. V, C. 101.

Gazette direct that all or any of the provisions of the Act shall not apply to any area which it may specify in the notification.

This safeguard is provided to ensure against any chance of a breakdown of the whole economic structure of a village.

(4) It shall come into force on such date as the Local Government may, by notification, direct.

Interpretation
clauses.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) "Agricultural calamity" means, with reference to a particular debtor, a calamity other than a slump in prices on account of which

(a) if the debtor is a revenue paying landlord, or an under-proprietor in Oudh holding a sub-settlement, there has been a suspension or remission of the revenue of any of his holdings; or

(b) if the debtor is a landlord, holding land free of revenue, there would have been a suspension or remission of the revenue of any of his holdings, if revenue had been payable therefor; or

(c) if the debtor is a thekadar of land, there has been a suspension or remission of the rent of any holding payable to him; or

(d) if the debtor is a tenant of land or a person other than a thekadar or an under-proprietor in Oudh holding a sub-settlement and paying rent for his land, there has been a suspension or remission of the rent of any holding payable by him.

"Revenue" means land revenue, see s. 4 (7) of the U. P. Land Revenue Act III of 1901.

"Land-lord"—See 1926 R. C. 523.

"Under-proprietor."—See s. 3 (8) of the Oudh Rent Act XXII of 1886.

"Land" See s 3 (3) of the Oudh Rent Act and s. 3 (2) of the Agra Tenancy Act.

"Holding"—See 39 All. 263.

(2) "Agriculturist" means, in all sections of the act where the term is used —

- (a) a person who, in districts not subject to the Benares Permanent Settlement Regulation I of 1795, pays land revenue not exceeding Rs. 1,000 per annum ; or
- (b) a person who, in districts subject to the Benares Permanent Settlement Regulation I of 1795, pays a local rate under section 109 of the District Boards Act X of 1922, not exceeding Rs. 120 per annum ; or
- (c) a person holding land free of revenue, who pays a local rate under section 109 of the District Boards Act X of 1922, not exceeding Rs. 120 per annum ; or
- (d) in Oudh an under-proprietor holding a sub-settlement of land the revenue of which does not exceed Rs. 1,000 per annum ; or
- (e) a thekadar who holds a theka of land the revenue of which does not exceed Rs. 1,000 per annum ; or
- (f) a person, other than a thekadar or an under-proprietor in Oudh holding a sub-settlement who pays rent for agricultural land not exceeding Rs. 500 per annum ; or

(g) a person holding land free of rent, the area of which does not exceed 80 acres; or

(h) a person ordinarily living outside the limits of any municipality who belongs to any of the classes of persons mentioned in schedule I:

Provided that in sections 2 (10) (a), 3, 4, 5, 8 and Chapters IV and V an agriculturist means also a person who would belong to a class of persons mentioned in parts (a) to (g) of this sub-section, if the limits of land revenue, local rates, rent and area mentioned in these parts were omitted:

Provided also that no person shall be deemed to be an agriculturist if he is assessed to income-tax, which, if he belongs to any of the classes (a) to (e) above, exceeds the local rate payable on the land which he holds, or, if he belongs to class (f) above exceeds 5 per cent. of his rent, or if he belongs to class (g) above, exceeds Rs. 25.

Provided further that if an agriculturist joins with a non-agriculturist in any transaction of loan or mortgage, he shall not be considered to be an agriculturist in respect of that transaction.

Explanation I.—In this sub-section “revenue” and “rent” means revenue and rent payable irrespective of the remission that may be granted for the slump in prices or for agricultural calamities.

Explanation II.—In the case of members of a joint Hindu family or joint owners or joint tenants, each member or owner or tenant shall be considered to be an agriculturist for the purposes of Chapters II, (except sections 3, 4, 5 and 8, III and VI, whose share or interest in revenue, local rate or rent or the rent-free land,

the case may be, does not respectively exceed the aforesaid limits.

Explanation III.—In Oudh an under-proprietor of specific plots not holding a sub-settlement and paying rent not exceeding Rs. 500 per annum is an agriculturist.

Explanation IV.—The word “rent” in this sub-section includes, in cases where rent is payable in kind, the money equivalent thereof recorded in the *khatauni* of the previous year.

Explanation V.—The word “rent” in this sub-section shall not include *zaid mutalba* or any amount paid in excess of the rent legally payable.

Explanation VI.—When a person pays both rent and revenue, he shall not be deemed to be an agriculturist for the purposes of Chapters II except sections 3, 4, 5 and 8, III and VI, if the total of the rent and revenue annually payable by him exceeds Rs. 1,000, or if he is excluded from the definition of agriculturist under any of the clauses (a) to (g).

Explanation VII.—When a person, holding land in districts subject to the Benares Permanent Settlement Regulation I of 1795, or holding land free of revenue, pays both rent and local rate, he shall not be deemed to be an agriculturist, if the total of the rent and local rate annually payable by him exceeds Rs. 500.

Illustrations.

(i) A person who pays Rs. 800 as revenue and Rs. 400 as rent is not an agriculturist as the total of rent and revenue exceeds the limit of Rs. 1,000.

(ii) A person pays Rs. 200 as revenue and Rs. 600 as rent. He comes under clause (a) but not under clause (f) he is not therefore an agriculturist.

(3) "Bond" means a bond as defined in section 2 of the Indian Stamp Act II of 1899.

(4) "Collector" means the officer appointed as Collector of a district under the Land Revenue Act II of 1901.

(5) "Court" means a civil court.

(6) "Co-operative Society" means a society registered under the provisions of the Co-operative Societies Act II of 1912.

(7) "Creditor" in Chapter V means a person who in the regular course of business advances a loan as defined in this Act, and includes the legal representatives and the successors-in-interest, whether by inheritance, assignment or otherwise, of a creditor.

"Legal representative"—See S. 2 (ii) of the Civil Procedure Code, Act V of 1908.

(8) "Interest" includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or in the form of service or otherwise.

(9) "Land" and "landlord" shall have the same meaning as in the Agra Tenancy Act III of 1926.

(10) (a) "Loan" means an advance to an agriculturist whether of money or in kind and shall include any transaction which is in substance a loan, but shall not include—

(i) a loan advanced by the Local Government or by any Municipal, District or Cantonment Board authorized by the Local Government to advance loans or by a Co-operative Society;

- (ii) except for the purposes of sections 7, 8, 35 (1), 37, 38 and 41, small loans not exceeding Rs. 20 repayable within a year in fixed equated instalments the total of which does not exceed the principal by more than 10 or 20 per cent. according as the instalments are spread over a period of less than six months or more than six months, provided that no further interest is charged in addition to fixed equated instalments ; and
- (iii) a loan of agricultural produce repayable at the next harvest with not more than one quarter of the quantity of the said produce by way of interest.

Explanation.—A loan advanced as one transaction shall, for the purpose of sub-clause (ii) be deemed to be one loan, even though it is evidenced by several separate documents or by separate entries in a document.

(b) "Secured loan" means a loan for which property other than agricultural produce is specifically hypothecated as security.

(c) "Unsecured loan" means a loan which is not secured.

(11) "Money" shall be deemed to include agricultural produce, implements and stock.

(12) "Prescribed" means prescribed by this Act, or by rules made under this Act.

(13) "Thekadar" shall have the same meaning as in the Agra Tenancy Act III of 1926.

(14) "Under-proprietor" shall have the same meaning as in the Oudh Rent Act XXII of 1886.

CHAPTER II.

SUITS AGAINST AGRICULTURISTS.

3. (1) Notwithstanding any provision in the Code of Civil Procedure V of 1908 to the contrary, the Court, at the time of passing a decree for money or for sale in default of payment of money against an agriculturist, may, and, on the application of such agriculturist, shall, unless for reasons to be recorded it directs otherwise, direct that the total amount found due for principal, interest up to the date of the decree and costs, if any, shall be paid in such number of instalments payable on the dates fixed by the court as, having regard to the circumstances of the judgment-debtor and the amount of the decree, the Court considers proper :

Provided that the period of such instalments shall not extend beyond four years from the date of the decree in the case of an agriculturist to whom Chapter III applies, and beyond 20 years from such date in the case of an agriculturist to whom Chapter IV applies :

Provided further that, if the court is satisfied that on account of an agricultural calamity the payment of any instalment by a judgment-debtor is likely to cause hardship, it may, after notice to the decree-holder, allow such further time for payment of such instalment as it may consider proper.

(2) The Court may at the time of passing an instalment decree against an agriculturist, either attach his immoveable property, if any, or declare a charge on such property within the meaning of section 100, Transfer of Property Act IV of 1882 to the extent of the amount decreed.

This sub-section empowers the Court to attach immovable property and to create a charge on it by its order without undergoing the tedious process of execution.

(3) An attachment under sub-section (2) shall, unless, the Court directs otherwise, subsist until the decree has been paid off or otherwise satisfied, and all provisions in the Code of Civil Procedure V of 1908 relating to attachment in execution of decrees and to investigation of claims to attached property shall apply to such attachment.

(4) If the decree provides for payment by instalments the court shall direct that, where the number of instalments allowed is four or five and any two instalments are in arrears, or where the number allowed is six or more and any three instalments are in arrears, the decree-holder may immediately enforce payment of the whole amount then remaining due under the decree.

(5) Nothing in any order made in an instalment, decree shall debar a judgment-debtor from paying at any time, towards the satisfaction of the decree, the whole of the amount that may be due thereunder or any amount exceeding the amount of an instalment that may be fixed under the decree.

4. Notwithstanding anything contained in the Code of Civil Procedure V of 1908, the rate at which future interest may be allowed in any decree for payment of money or for sale in default of payment of money passed against an agriculturist, shall not exceed, in the case of an agriculturist to whom Chapter III applies, 2 per cent. per annum and, in the case of other agriculturists, 3 per cent. per annum :

Provided that in case of decrees passed on the basis of loans taken after such date as may be notified by the

Local Government in the Gazette in this behalf, the Court may allow future interest at a rate not exceeding 3 per cent. per annum in the case of agriculturists to whom Chapter III applies and $4\frac{1}{2}$ per cent. per annum in the case of other agriculturists, but in cases to which section 33 applies no future interest in excess of the specified in schedule V shall be allowed.

5. Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Court shall, unless for reasons to be recorded it directs otherwise, at any time, on the application of the judgment-debtor and after notice to the decree-holder, direct that the amount of any decree passed against an agriculturist whether before or after this Act comes into force, shall be paid by instalments arranged in the same manner as provided in section 3.

Power to fix instalments after the passing of decrees.

This section empowers the Court to grant instalment after the passing of the decree and overrides Order 21 rule 11 (2), Civil Procedure Code and Article 175 of the Limitation Act

6. In no case shall a decree passed by a civil court against an agriculturist be executed by attachment or sale of agricultural produce after a period of four years calculated from the date of the filing of the first application for execution :

Limit to the execution of decree by sale of agricultural produce

Provided that the period during which more than one quarter of the holding of the judgment-debtor has been sub-let or during which the judgment-debtor has suffered from an agricultural calamity shall be excluded from the period of four years mentioned in this section.

Cf. Section 48 of Civil Procedure Code.

7. Notwithstanding anything contained in any other enactment for the time being in force, every suit for recovering a loan in which the defendant, or, where there are several defendants, any of the defendants, is an agriculturist, shall be instituted and tried in a court within the local limits of whose jurisdiction —

- (a) the agriculturist defendant, or any of the agriculturist defendants, where there are more than one such defendants, actually and voluntarily resides : or
- (b) in case the agriculturist defendant, or all the agriculturist defendants, reside outside the limits of the United Provinces of Agra and Oudh—
- (1) the holding or the landed property of the agriculturist defendant, or any of them, if there are more than one such defendants, is situate, and
- (2) if the agriculturist defendant or none of the agriculturist defendants has a holding or landed property, the agriculturist defendant or any of them, if there are more than one such defendant, carries on the profession by virtue of which he is classed as an agriculturist.

This section takes away the right conferred a plaintiff by s. 20, C. P. C. to sue a defendant in a place where the cause of action has accrued.

Residence will give jurisdiction in case the agriculturist resides in the United Provinces even when the cause of action has arisen outside the jurisdiction of the Court.

Actually—excludes domicile or constructive residence, while in the other compulsory residence does not confer jurisdiction.

Resides—See *Mohammed v. Laldin*, 3 Bom. 227, 229; *Goswan v. Goverdhanlalji*, 14 Bom. 541, 547.

8. (1) No person shall be deemed to be an agriculturist for the purposes of this chapter unless he was an agriculturist both at the time of the advance of the loan as well as at the date of the suit:

Provided that, if a person who has a subsisting interest in land, but by reason of a temporary transfer or for any other similar reason, does not for the time being pay any rent or revenue in respect thereof, he will not merely by reason of such non-payment cease to be an agriculturist.

(2) For the purposes of sections 3, 5 and 6 any change in the status of the defendant subsequent to the date of the suit in which the decree was passed shall be ignored.

CHAPTER III.

MORTGAGES AND THEIR REDEMPTION.

9. Notwithstanding anything contained in the Transfer of Property Act IV of 1882 no mortgage of land or grove by an agriculturist made after the commencement of this Act shall be valid if, under the terms of such mortgage, possession of the mortgaged land or grove is delivered to the mortgagee, unless the mortgagee is authorized to retain such possession and to receive the rents and profits of such land or grove both in lieu of interest and towards payment of the principal, on condition that after the expiry of a fixed term not exceeding twenty years, the mortgaged land or grove shall be

redelivered to the mortgagor and the mortgage debt shall be deemed to have been discharged.

Explanation (1).—For the purposes of this section “land” means and includes land which forms a mahal or a share or a portion of a mahal or specified plots in a mahal.

Explanation (2).—Nothing in the section shall be construed to confer a right of effecting usufructuary mortgage of land on persons who do not possess transferable rights in such land.

This gives effect to the latter portion of s. 77 of the Transfer of Property Act. In such a case no account is to be rendered by the mortgagee to the mortgagor. A fallen tree is part of the produce of the land and the mortgagee may take it without accounting for its value. *Durga v. Ganga Sahai*, 30 A. L. J., 493; 1932, All. 500.

10. Applications under this chapter shall, if the principal money secured does not exceed Rs. 500 be brought before the Collector, and the word “court” in this chapter shall in such cases include the “Collector.

11. If a mortgagee holding possession under a mortgage made after the commencement of this Act by an agriculturist, remains in possession after the expiry of the period for which he is entitled to hold and on the expiry of which he is bound to deliver back the mortgaged property without any payment by the mortgagor, the Court shall, on the application of the person entitled to possession, direct that the mortgage be redeemed, eject such mortgagee, and place the person so entitled in possession, and may also direct the mortgagee to pay such compensation.

to the person found to have been wrongly kept out of possession as it may deem reasonable.

12. Notwithstanding anything contained in section 83 of the Transfer of Property Act IV of 1882 or any contract to the contrary, an agriculturist who has made a mortgage either before or after the passing of this Act, or any other person entitled to institute a suit for redemption of the mortgage, may, at any time after the principal money has become due, and, before a suit for redemption is barred, file an application before the Court, within whose jurisdiction the mortgaged property or any part of it is situate, in such form and giving such particulars as the Local Government may by rule prescribe, and praying for an order directing that the mortgage be redeemed, and, where the mortgage is with possession, that he be put in possession of the mortgaged property. The application shall be duly verified in the manner prescribed by law for the verification of plaints and shall state the sum which the applicant declares to the best of his belief to be due under the mortgage. The applicant shall at the same time deposit such sum with the Court.

Explanation.—For the purposes of sections 11 and 12 the word “property” includes grove.

Any other person entitled to institute a suit for redemption—See s. 91 of the Transfer of Property Act.

Deposit must include interest. *Hewanchal Singh v. Jawahar Singh*, 18 Cal., 307 P. C.

13. When the application has been duly presented and the deposit has been made, the Court shall issue a notice to the mortgagee to be summoned. The mortgagee to show cause on a day to be fixed in the notice why redemption should not be allowed.

Notice.—See Ss. 83 and 102 and 103 of the Transfer of Property Act.

14. If the mortgagee appears and accepts the deposit in full discharge of his mortgage, the Court shall order that the mortgage be redeemed, that the money deposited by the applicant be paid to the mortgagee and that the title-deeds, if any, in possession or power of the mortgagee shall be deposited in Court and be delivered to the mortgagor.

Cf. S. 83 of the Transfer of Property Act.

15. If on the date fixed the applicant does not appear and the mortgagee does not accept the deposit in full discharge of the mortgage, the Court shall reject the application.

16. If, on the date fixed or any subsequent date to which the proceedings may have been postponed, the applicant appears and the mortgagee does not appear in spite of notice, or the mortgagee appears and does not accept the money deposited by the applicant in full discharge of his mortgage or objects to redemption of the mortgage on any other ground, the Court shall hold an enquiry to determine whether the applicant is entitled to redeem the mortgage and whether the money deposited by him is sufficient. If the Court finds that the applicant is not entitled to redeem, it shall reject the application. If it finds that the applicant is entitled to redeem, but must pay a larger amount than that deposited by him, the Court shall order the applicant to deposit the balance within a fixed period. If the applicant fails to deposit the said balance, the Court shall reject his application. If the Court finds that the applicant is entitled to redeem

and that the amount deposited by him was sufficient if it was not sufficient, the applicant has deposited a balance within the time fixed it shall order that the mortgage be redeemed, that the money deposited be paid to the mortgagee, and that the title deeds, if any, in possession or power of the mortgagee shall be deposited in Court and shall be delivered to the mortgagor.

17. Where the mortgagor has deposited with the Court a sum which is accepted by the mortgagee under section 14, or is held by the Court to be sufficient under section 16, interest on such sum shall cease to run from the date of deposit.

Where the Court finds that a larger amount than that deposited by the mortgagor is due, and the balance is deposited by the applicant, interest shall cease to run from the date of deposit of such balance.

Cf S 84 of the Transfer of Property Act.

18. In all cases in which the Court orders redemption, it shall, if necessary, also put the applicant in possession of the mortgaged property, subject to any condition of the mortgage whereby a season or period of the year is fixed for surrendering possession.

Cf S. 83 of the Transfer of Property Act.

19. If the application is rejected, the Court shall return to the applicant the money deposited by him.

20. No sum deposited by an applicant under the provisions of this chapter shall, when in such deposit, be attached by a court or revenue officer in enforcement of a decree.

of any claim against the applicant other than a claim arising out of the mortgage.

Terms "mortgagor" and "mortgagee" to include their successors.

21. The words "mortgagor" and "mortgagee" in this chapter include respectively the successors-in-title of the original mortgagor and the original mortgagee.

Investment of powers on Assistant Collectors and transfer of proceedings.

22. (1) The Local Government may empower any Assistant Collector of the first class to exercise the powers of a Collector under this chapter.

(2) The Collector may transfer any proceedings under this Chapter —

(a) from his own court to that of an Assistant Collector empowered under sub-section (1) ;

(b) from the court of an Assistant Collector subordinate to him either to his own court or to that of any other Assistant Collector empowered under sub-section (1).

23. (1) An appeal shall lie to the District Judge from an order of a Collector or Assistant Collector passed under this Chapter. An appeal shall lie from the order of a civil court passed under this Chapter to the court to which original decrees passed by such court are ordinarily appealable, and where such decrees are appealable to more courts than one, to the court of lowest jurisdiction.

(2) No appeal shall lie from an appellate order passed under this section.

When application can be filed under this Chapter.

24. (1) No application under section 11 or 12 shall be filed unless.—

(a) the applicant is an " agriculturist " on the date of the application, and

(b) the mortgagor was an " agriculturist " at the time of the mortgage.

(2) In cases in which the status of a mortgagor as " agriculturist " on the date of mortgage is at issue and documentary evidence is forthcoming to prove it, the status of the mortgagor on that date shall be determined with reference to the entries in the record of rights or the annual registers prepared under the Land Revenue Act III of 1901 of the year nearest to the year of mortgage for which they exist.

25. No suit shall be brought in any court for any relief which can be obtained by application under this chapter.

Bar of suit.

26. (1) The limitation for making an application for redemption under this Chapter shall be the same as that provided in the Indian Limitation Act, IX of 1908 for a suit for redemption.

Limitation.

See Art. 148 of the Limitation Act.

(2) The limitation for filing appeals and for execution of orders under Chapter III shall be the same as that prescribed by law respectively for appeals under the Code of Civil Procedure, V of 1908 and for decrees passed by Civil Courts.

See Arts. 150 to 157 of the Limitation Act for appeals and Arts 158 to 166 for execution of decrees and miscellaneous applications.

(3) The provisions of sections 6, 7, 8, 19 and 21 of the Indian Limitation Act IX of 1908 shall apply to applications under this Chapter and the provisions of section 5 of the said Act shall apply to appeals under this Chapter.

27. The provisions in the Code of Civil Procedure, V of 1908, in regard to suits shall be followed, so far as they can be made applicable, to all proceedings under this Chapter, and all orders passed under this Chapter shall be executed in the manner prescribed for execution of Civil Court decrees.

CHAPTER IV.

RATES OF INTEREST.

28. (1) Notwithstanding anything in any contract to the contrary, no loan taken by an agriculturist after the date notified by the Local Government in the Gazette in this behalf shall bear interest at a rate higher than that notified by the Local Government under sub-section (2) as the prevailing rate of interest for the particular class of loan at the time the loan was taken.

(2) As soon as possible after the rate of interest at which the Government of India will lend money to the Local Government is announced from time to time, the Local Government shall notify in the Gazette, and shall publish in such other manner as it thinks proper, the rates which shall be the prevailing rates of interest on secured and unsecured loans of the various classes mentioned in Schedule II contracted during the period such prevailing rates shall remain in force. Such prevailing rates shall come into force from such date as may be notified by the Local Government and shall remain in force until superseded by new rates, provided that the minimum period during which they shall remain in force shall be one year.

(3) Such prevailing rates as are referred to in sub-section (2) shall be fixed at the percentage rates specified for different classes of loans in the Schedule II above the rate of interest at which the Local Government borrows from the Government of India.

29. If an unsecured loan taken after the date on which this Act comes into force, is repaid within two years of the date of the taking of the loan, or, if it is a loan for a fixed period, is repaid within such period, the debtor shall not be liable to pay interest at a rate higher than the prevailing rate of interest for a secured loan of the same class in force at the time the loan was taken.

30. (1) Notwithstanding anything in any contract to the contrary in the case of loans taken during the period between January 1, 1917 and January 1, 1930 no debtor shall be liable to pay—

(a) for the period from the date on which the loan was taken till January 1, 1930, interest at a rate higher than that specified in Schedule III; and

(b) for the period from January 1, 1930, till such date as may be fixed by the Local Government by notification in the Gazette interest higher than at the rate specified in Schedule IV.

(2) Any amount already received by the creditor on account of interest in excess of that due under the provisions of this section shall be credited towards the principal but nothing in this section shall be deemed to

entitle a debtor to claim refund of any part of the interest already paid by him.

31. (1) Notwithstanding anything in any contract to the contrary, in the case of loans taken after January 1, 1930, and before such date as may be fixed by the Local Government by notification in the Gazette in this behalf, no debtor shall be liable to pay interest higher than at the rate specified in Schedule IV.

(2) Any amount already received by the creditor on account of interest in excess of that due under the provisions of this section shall be credited towards the principal; but nothing in this section shall be deemed to entitle a debtor to claim refund of any part of the interest already paid by him.

32. (1) Notwithstanding anything in any contract to the contrary, no loan shall bear interest at a rate higher than that specified in Schedule V, calculated on the principal or such part of it as has not already been repaid after a sum equal to 100 per cent. of the principal in the case of secured loans and 150 per cent. of the principal in the case of unsecured loans, has been realized or has been accrued at the contractual rate on account of interest on such loans.

(2) Any amount already received by the creditor on account of interest in excess of that due under the provisions of this section shall be credited towards principal; but nothing in this section shall be deemed to entitle a debtor to claim refund of any part of the interest already paid by him.

Explanation.—In the case of loans which have subsequently been compounded the word 'principal' in this section means—

(i) if the original loan was taken on or after January 1, 1910, the amount of such original loan, together with the amount of any additional loan or loans taken at the time of each such compounding, and

(ii) if the original loan was taken before January 1, 1910, the amount of such original loan if it was not compounded before that date or, if the loan was compounded before that date, the amount at which it was last so compounded, together with, in either case, the amount of any additional loan or loans taken at any compounding on or after January 1, 1910.

33. (1) If before the commencement of this Act a decree has been passed on the basis of any loan to which the provisions of section 30 or 31 would have applied and has not yet been satisfied, the judgment-debtor may, notwithstanding the provisions of any other law for the time being in force, within the period of one year from the commencement of this Act apply for amendment of the decree to the Court which passed the decree or, if the decree was passed on appeal, to the Court of first instance in which the suit was originally tried.

(2) On the making of such application the Court shall reopen the account between the parties and determine the amount which would have been payable under the decree on the date of the decree if interest had been calculated in accordance with the provisions of sections 31 and 32 and shall amend the decree by substituting such amount for that entered in the decree, and by substituting such order for future interest as could be passed under section 4 :

Provided that the decree shall not be so amended as to increase the liability of the judgment-debtor :

Provided also that the judgment-debtor shall not be entitled to claim refund of any amount which he may have paid in excess to that which may be found due to the decree-holder under the decree as amended under this section.

(3) The Court may, pending the disposal of such application, stay all proceedings for execution of the decree sought to be amended.

(4) For the purposes of section 48 of the Code of Civil Procedure, V of 1908, the amended decree shall be deemed to bear the date of the original decree, and the period during which the execution of the decree remains stayed under an order passed under sub-section (3) shall be excluded from the period prescribed by that section.

(5) If before the commencement of this Act a Civil Court decree passed on a loan to which the provisions of section 30 or 31 would have applied has been adjusted between the parties by a new contract in the nature of a loan entered into by the judgment-debtor and a suit is instituted on the basis of such contract, the debtor may claim that his liability should be determined by reopening the account between the parties in the manner provided in sub-section (6).

(6) On such claim being made the Court shall determine the amount which would on the date of such adjustment have been due under the decree if at the time of passing the decree interest had been calculated in accordance with the provisions of sections 30, 31 and 32 and future interest had been allowed in accordance with section 4 and if such amount is less than the amount entered in the contract as being due under the decree, such amount instead of the latter, shall be treated as

principal, or part of principal, as the case may be, of the contract in suit.

CHAPTER V.

MAINTENANCE OF ACCOUNTS.

Duty of creditor to maintain and furnish accounts. 34. (1) A creditor shall, after the date on which this Act comes into force,—

(a) regularly record and maintain a correct account for each agriculturist debtor of all transactions relating to each loan advanced to that debtor, in such manner as the Local Government may prescribe; and

(b) supply each agriculturist debtor every year with a full and correct statement of account signed by the creditor or his agent of any balance or amount that may be outstanding against such debtor on account of each separate loan on such date as the Local Government may prescribe in this behalf. Such statement of account shall include all transactions entered into during the year to which the statement relates, and shall contain such details and particulars as the Local Government may prescribe. It shall be supplied to the debtor within one month of the aforesaid date in such form and in such manner as the Local Government may prescribe.

(2) A person to whom a statement of account has been submitted under sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to protest shall not, by itself, be deemed to be an admission of correctness of the account.

(3) The account prescribed under sub-section (1) (a) shall be deemed to be regularly kept in the course of business for the purposes of section 34, Indian Evidence Act, 1872, and copies of entries in such account certified in such manner as may be prescribed shall be admissible in evidence for any purpose in the same manner and to the same extent as the original entries.

35. (1) An agriculturist debtor may sue for an account of money lent or advanced to, or paid for, him by any person, or due for account of or paid for, him by any person, or due money lent. by him to any person as the price of goods or on a written or unwritten engagement for the payment of money, and of money paid by him to such person.

(2) In such suit the Court shall follow the provisions of Chapter IV of this Act and the provisions of the Usurious Loans Act X of 1918. It shall, after taking necessary accounts, declare the amount which is still payable by the plaintiff to the defendant, and shall on the application of the defendant, and if the money is payable, pass a decree in favour of the defendant.

(3) Subject to section 30 (2) or section 32 (2), as the case may be, if the defendant is found to have been overpaid, the court shall pass a decree for refund of the amount of such overpayment in favour of the plaintiff.

36. Notwithstanding anything contained in any other enactment for the time being in force—
Penalty for non-compliance with the provision of section 24.

(a) in any suit or proceeding relating to a loan against an agriculturist, if the debtor objects that the creditor has not complied with the

provisions of section 34, the Court shall determine such objection before deciding the claim on the merits ;

- (b) if the Court finds that the provisions of clause (a) of section 34 have not been complied with by the creditor, it may, if the creditor's claim is established in whole or in part, disallow the whole or a portion of the interest found due, as it may deem reasonable in the circumstances of the case, and shall disallow the creditor's costs ;
- (c) if the Court finds that the provisions of clause (b) of section 34 (1) have not been complied with by the creditor, the Court shall in computing the amount of interest due upon the loan exclude every period for which the creditor has failed to comply with the said provision :

Provided that if the creditor has, after the time prescribed in the said clause, furnished the account and satisfies the Court that he had sufficient cause for not furnishing it earlier, the Court shall, notwithstanding such omission, include any such period or periods for the purpose of computing the interest :

Provided further that if the creditor has submitted an account, which is not full and correct, and satisfies the court that the omission or error was *bonafide* and due to inadvertence, the Court shall, notwithstanding such omission or error, include any such period or periods for the purpose of computing the interest.

Explanation.—A person who has kept his account and submitted his yearly statement of account in the form and manner prescribed in clauses (a) and (b) of sub-

section (1) of section 34 shall be held to have complied with the provisions of these clauses, in spite of any errors and omissions, if the Court finds that the errors and omissions were accidental and not material and that the accounts have been kept in good faith with the intention of complying with the provisions of these clauses.

37. (1) Any creditor who, after the commencement of this Act, records in his book of accounts or in the statement of account submitted to the debtor as lent to an agriculturist a sum larger than that actually lent, whether by way of charges for expenses, inquiries, fines, bonuses, premia, renewals, or otherwise, shall be punished for the first offence with fine which may extend to one hundred rupees, and, for a second or subsequent offence with regard to the same or any other agriculturist, with fine which may extend to five hundred rupees.

(2) Where in any suit concerning a loan taken by an agriculturist the Court finds that the creditor has, without reasonable cause refused or neglected to deliver to the debtor a receipt for any payment by him on account of such loan or to credit such payment on the written instrument securing such loan, it may award the debtor such compensation not exceeding double the amount of such payment as it may consider proper.

38. The provisions of sections 34, 36 and 37 shall not, in the case of a loan advanced before the commencement of this Act, apply to the period prior to the commencement of this Act.

Saving in cases of previous loans.

CHAPTER VI.

MISCELLANEOUS.

39. When a loan has been advanced in kind, a debtor may at his option repay it either in the same kind or in cash at a fair rate, if no rate has been agreed upon, or in any other form and at the rate agreed upon between the creditor and himself:

A loan taken in kind may be paid by the debtor at his option in the same or another kind.

Provided that if there is a dispute about the fairness of the rate, the question shall be referred either by the creditor or the debtor to the Collector, whose decision shall be final.

40. (1) A debtor may at any time, whether during the pendency of a suit or otherwise, deposit in court a sum of money not less than one-fourth of the amount due at the time in full or part payment of a loan not being a loan secured by a mortgage and may apply that such sum be paid to the person to whom it is due.

(2) The Court shall give notice of such deposit to the creditor and shall on his application pay the amount of deposit to him.

(3) From the date of such deposit interest shall cease to run on the amount so deposited.

Preparation of a document for every loan given to an agriculturist after the passing of this Act and the entry of certain details in the document, and the supply of a copy to the debtor.

41. (1) Every loan given after the date on which this Act comes into force shall be evidenced by a written document, of which a copy shall be given to the debtor and which shall contain the details prescribed by rules framed under section 43 in addition to the details mentioned in sub-section (2) of this section.

(2) In the case of unsecured loans an entry shall be made in every such document specifying the date by which repayment must be made in order to earn the benefit of section 29 and the rate of interest which shall prevail if repayment is made by such date.

(3) No interest shall accrue on any loan until a copy of the written document prepared according to the provisions of sub-sections (1) and (2) has been supplied to the debtor as required by sub-section (1).

(4) Notwithstanding anything in the Indian Stamp Act II of 1899, no such written document as is referred to in sub-section (1) shall require a stamp duty higher than that which would have been payable in respect thereof had it not contained the details mentioned in sub-sections (1) and (2).

42. (1) Notwithstanding anything contained in the Indian Stamp Act II of 1899, and Stamp duty, etc, on certain bonds by agriculturists. the rules made under the Indian Registration Act XVI of 1908, the stamp duty and the registration and copying fees on bonds of value or amount not exceeding rupees three thousand, executed by an agriculturist and registered under the Indian Registration Act, shall be as laid down in Schedule VI.

(2) If a bond is executed on a form printed under the authority of the Local Government, no copying fee shall be leviable for making a copy or a note of the bond in the books prescribed under the Indian Registration Act XVI of 1908.

43. (1) The Local Government may make rules consistent with this Act for the purpose of carrying out the provisions of this Act.
Power of Local Government to make rules.

(2) Before making the rules under this section the Local Government shall publish a draft of the same in the Gazette and shall concurrently cause a copy of the said draft to be sent to every member of the Legislative Council.

(3) In making the rules finally the Local Government shall consider the opinions received by them as well as any opinion expressed by the Legislative Council.

44. Except as otherwise provided by this Act no order passed by the Local Government or the Collector under this Act shall be called in question in a civil court.

Exclusion	of
jurisdiction	of
civil courts.	

SCHEDULE I.

THE CLASSES MENTIONED IN SECTION 2 (2) (h).

Agricultural labourers, general labourers, cowherds, goatherds, dairymen, blacksmiths, carpenters, fishers, hunters, boatmen, barbers, tanners and leather-workers, scavengers, basketmakers, potters, midwives, watchmen, washermen, weavers or other servants of the village community or any similar class of persons whom the Local Government may by notification in the gazette from time to time include in this Schedule.

SCHEDULE II.

Percentage rates mentioned in section 28 by which the prevailing rate of interest should exceed the percentage rate at which the Local Government borrow from the Government of India.

Amount of loan.	Secured loans.		Unsecured loans.	
	Compound per cent. per annum with yearly rests.	Simple per cent. per annum.	Compound per cent. per annum with yearly rests.	Simple per cent. per annum.
(a) Rs 500 and under ...	3	5½	7½	10½
(b) Rs 501 to Rs. 5,000 ...	2½	4½	6	8
(c) Rs 5,001 to Rs. 20,000...	2	3½	4½	6½
(d) Rs. 20,001 to Rs. one lakh	1½	2½	3½	5
(e) Over Rs. one lakh ...	1	1½	2½	3½

SCHEDULE III.

Percentage rates mentioned in section 30.

Amount of loan.	Secured loans.		Unsecured loans	
	Compound per cent. per annum with yearly rests.	Simple per cent. per annum	Compound per cent. per annum with yearly rests.	Simple per cent. per annum.
(a) Rs. 500 and under ...	7½	10	12	15
(b) Rs. 501 to Rs. 5,000 ...	7	9	10	12½
(c) Rs. 5,001 to Rs. 20,000	6½	8	9	11
(d) Rs. 20,001 to Rs. one lakh	6	7	8	9½
(e) Over Rs. one lakh ...	5½	6	7	8

SCHEDULE IV.

Rates of interest for sections 30 and 31.

Amount of loan.	Secured.	Unsecured.
(a) Rs 500 and under ...	10 per cent. per annum simple.	15 per cent. per annum simple.
(b) Rs. 501 to Rs. 5,000 ...	9 "	12½ "
(c) Rs. 5,001 to Rs 20,000 ...	8 "	11 "
(d) Rs. 20,001 to rupees one lakh ...	7 "	9½ "
(e) Over rupees one lakh ...	6 "	8 "

SCHEDULE V.

Rates of interest mentioned in section 32.

Time of the taking of the loan.	Secured loans.	Unsecured loans.
If the loan was taken before this Act came into force.	Simple interest at 3½ per cent. per annum.	Simple interest at 5½ per cent. per annum.
If the loan was taken after this Act came into force.	Simple interest at the rate at which the Local Government borrows from the Government of India at the time when the 100 per cent. or 150 per cent. as the case may be, specified in section 32 is reached.	Simple interest at 2 per cent. above the rate at which the Local Government borrows from the Government of India at the time when the 100 per cent. or 150 per cent. as the case may be, specified in section 32 is reached.

Scale mentioned in section 41.

Amount or value of the bond.	Stamp duty.		Registra- tion fee.		Copying fee
	Rs.	as	Rs.	as.	
Where the amount or value secured does not exceed Rs. 50.	0	1	0	1	3
Where it exceeds Rs. 50 but does not exceed Rs 100	0	2	0	2	3
Ditto Rs 100 ditto	0	4	0	4	4
Ditto Rs. 200 ditto	0	6	0	6	6
Ditto Rs. 300 ditto	0	8	0	8	8
Ditto Rs. 400 ditto	0	12	0	12	10
Ditto Rs. 500 ditto	1	10	2	4	12
Ditto Rs. 600 ditto	2	0	2	4	12
Ditto Rs. 700 ditto	2	6	2	4	12
Ditto Rs. 800 ditto	2	12	2	4	12
Ditto Rs. 900 ditto	3	2	2	4	12
Ditto Rs. 1,000 ditto	1	0	0	4	Nil
For every Rs. 250 or part of Rs. 250 above Rs. 1,000 and up to Rs. 3,000.					

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